

# Minutes

## Agricultural & Natural Resources Advisory Committee

Thursday, May 8, 2014, at 9:00 am

Charlotte County Administrative Center

18500 Murdock Circle, Room #B-207

Port Charlotte, FL 33948-1094

### MEMBERS PRESENT

Andy Dodd, Chairman

Orrin Webb, Secretary

Steve Smith

Wes Brumback, Vice Chairman

### MEMBERS EXCUSED

Chris Hencher

Lindsay Harrington

Dan Ryals

### MEMBERS ABSENT

### GUEST

Andy Neuhofer

### STAFF

Matt Trepal, Staff Liaison

Inga Williams, Staff Liaison

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### CALL TO ORDER/ROLL CALL/DETERMINATION OF QUORUM

The **May 8, 2014**, meeting of the **Agricultural and Natural Resources Advisory Committee** was called to order at 9:06 a.m. by **Chairman Dodd** who noted that there was a quorum present.

### ADDITIONS/DELETIONS TO AGENDA

None.

### APPROVAL OF MINUTES

**Chairman Dodd** called for action on the minutes of March 27, 2014 which were approved on a motion by **Mr. Webb**, and unanimously carried.

### NEW BUSINESS

- ❖ *New Members, discussion and recommendation to BCC*  
**Chair Dodd** discussed some potential new members, at least one to take the place of Matt Sullivan who had resigned. Chair Dodd mentioned that he had talked to Ralph Chamberlain but had no response. He also spoke to Nigel Morris who has expressed his willingness to come back on the Committee. Chair Dodd indicated he would entertain a motion that the group recommend to the BCC that Mr. Morris come aboard, which Mr. Brumback moved and Mr. Smith seconded; the motion passed unanimously.
- ❖ *Our last meeting in B-207; future meetings in the Building Division large conference room.*

Chair Dodd reminded members that this is the last meeting in the B Building conference room.

**COMMISSIONER COMMENTS**

Commissioner Duffy arrived; she suggested deferring her comments until later in the meeting.

**OLD BUSINESS**

*Earthmoving Ordinance Update*

Discussion moved on to review of the revised draft ordinance. **Chair Dodd** discussed changes that had been suggested by the Committee to be incorporated into the current draft. He noted that the matter an exemption for hours of operation had not been changed yet; **Ms. Williams** said that specific item would be a matter for the Board to decide, noting that anything highlighted in yellow in the draft was in that same category of items on which there had been no consensus, and which were left for the Commission to decide.

Discussion ensued on those changes which had been made as requested. **Chair Dodd** commented on the change to the mini pond requirements, which had turned out well. The exemption verification process, however, is more restrictive than state statute; further discussion ensued on the distinction between "two feet above the confining layer" and the reference to 12 feet for exempt items. Also inconsistent with state statute, **Chair Dodd** said, is the requirement regarding creating a pond on a parcel under 150 acres; this language wouldn't allow a 15 acre pond on a parcel under 150 acres. **Mr. Brumback** indicated that would be a rare situation; **Chair Dodd** agreed that this may not be a big concern.

Another issue raised by **Chair Dodd** was the requirement for an application to be submitted to determine that you are exempt; he suggested that having to go through an application process subverts the idea of a process being truly "exempt", noting that if SWFWMD has given you an exemption, you should be able to produce a copy of that, rather than get a separate determination from the county. He suggested language indicating that "the County shall accept as verification an exemption confirmation letter or an ERP issued by an appropriate state regulatory agency."

Further discussion ensued on this point. **Mr. Neuhofer** noted that ponds of less than one-half acre are even exempt from SWFWMD; **Chair Dodd** said that was addressed under "mini ponds" and there is no notification of any kind required at that level of excavation, and he indicated he was comfortable with that language. The problem, he said, is with the exempt verification process; he also indicated he wasn't sure whether, when the state says a project is exempt, it still needs to get an exempt verification from SWFWMD. **Mr. Neuhofer** said they like for you to talk to them first, and they give you a letter. **Chair Dodd** emphasized that with such a letter, there shouldn't be anything further required, and Mr. Neuhofer agreed, along with Commissioner Duffy.

Discussion then moved on to Item D: Exempt process, where the **Chair** suggested a small language change: "materials retained on site." [end here – delete further verbiage.] **Chair Dodd** also recommended adding some other verbiage back in, regarding the minimum setback from any wetlands which should be 50 feet; he noted that this is a state requirement and restoring this language would be an assurance to environmental concerns that there will always be that distance maintained.

One more issue which **Chair Dodd** noted was already among those highlighted in yellow, requiring a Board decision to solve the lack of consensus, was the AG excavation which the document used to divide into "ag major/ag minor" which the group had no objection to. Staff, following direction they feel they received from Board, proposed that AG excavation can't remove dirt from the site for any reason. He continued, noting his feeling that the intent was to say: if you want to remove dirt for any reason, then you would need to go through the regular mining application process whereas, to stockpile, nothing needs to be done. Now, in this draft, there is exact same documentation required as from commercial mine. **Chair Dodd** suggested taking the language in F and moving it up under the exempt verification process; and then item 3 should specifically say that excavated material shall be retained on site. Further discussion ensued on these and related points, with comments from **Mr. Smith, Commissioner Duffy, Mr. Brumback** and **Mr. Neuhofer**.

In response to comments from **Commissioner Duffy**, Chair Dodd supported separating the AG operations from the commercial activities in particular by emphasizing that taking excavated material off site is a commercial activity. He made the distinction between an excavation that is planned out for vacant land and Mr. Brumback's situation which was a "retro-fit" that could not accommodate the excavated material on-site. **Chair Dodd** also commented that the only difference he saw in this draft between an AG excavation and a commercial mining operation was the presence of a reclamation plan; he suggested requiring the AG operation that sells dirt to do a reclamation plan also. Further discussion ensued on these points, and also concerning hours of operation limitations, the new distance established for operations near residential properties and the concern that getting a variance is a negative experience because people will oppose the operation; strategies regarding improvements to the draft and communications between Committee members and Commissioners were also discussed..

**Mr. Neuhofer** asked what the timeline would be for taking the matter to the Board; **Ms. Williams** said she would defer to Ms. Joanne Vernon, Excavation Administrator, to set the schedule, noting that Ms. Vernon had been awaiting comments back on the current draft. **Ms. Williams** also mentioned Ms. Vernon's anticipated one-on-ones with the Commissioners, noting that she had prepared a discussion document noting the areas of no consensus and suggesting changes that could be made by the Commission to address those, but that no changes were contemplated in the present document before the one-on-ones took place. **Commissioner Duffy** suggested representatives of the Committee arrange for meeting with each Commissioner; she also offered to raise the issue at the next Commissioner meeting under Comments. **Mr. Brumback** asked whether a letter would be effective, to address the hours of operation problem. There was also discussion of where this piece of the code fit into the larger Land Development Code revisions schedule; **Ms. Williams** indicated that this portion had been written so that it could go forward independently of the full Code revision.

Additional discussion ensued, ending with the Committee motion for Chair Dodd to present the issues to the Commission in both writing and through meetings, proposed by **Mr. Webb**, seconded by **Mr. Brumback** and adopted by unanimous vote.

#### Comprehensive Planm Revisions

Chair Dodd mentioned day-long meeting over the issues and his appreciation for the quality of the current draft; he also commented on some of the changes in language, including a change from "Smart Charlotte" to "Balanced Charlotte" and references to "sustainable" changing to "viable", etc. He also noted that the Committee's suggestions regarding the Watershed Overlay were adopted into the draft, and discussed the nature of some of this updated language. Further discussion

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ensued with regard to the draft language being displayed to the group, and additional language changes were proposed. **Mr. Brumback** also discussed the new approach to bulk storage inspections which he noted the State has now farmed out to Lee County to conduct.

**Mr. Neuhofer** asked why is there opposition to a pipeline in that area. **Mr. Brumback** asked if that was really desirable; **Chair Dodd** noted that this provision would shut down Keystone, but since that is the extension of a much larger project, it would be made to happen if it was deeply needed. The point was made that rail car and truck are not safer, witness recent fires that have been in the news. **Mr. Brumback** noted that opposition would be there; **Chair Dodd** mentioned that the City of Punta Gorda pushed for this, concerned about their drinking water supplies.

**Chair Dodd** indicated he needs direction from group to support what staff has put forward. A motion indicating that the committee supports the changes as proposed was made by **Mr. Webb**, seconded by **Mr. Brumback** and adopted by unanimous vote. **Commissioner Duffy** commented about the opposition to Comp Plan changes, indicating that it would be nice to see positive emails on the subject.

### **CORRESPONDENCE AND COMMUNICATIONS**

*None.*

### **PUBLIC COMMENTS**

**Mr. Neuhofer** inquired about the flood ordinance, asking when is this anticipated?

**Commissioner Duffy** responded that the County is not really doing anything about that, noting that FEMA is changing the maps. **Mr. Neuhofer** noted that some counties have the new maps already. Further discussion ensued, with **Chair Dodd** indicating that Claire Jubb of the Building Construction Services division is working on the revised Flood Plain ordinance which references that there are no more exemptions for AG structures if they are in flood zone. He said he assumed that will come through with the rest of the changes to the Zoning Code. **Mr. Neuhofer** volunteered to gather information on the resolution of the AG exemption issue and get it to the Chair.

### **STAFF COMMENTS**

*None.*

### **MEMBER COMMENTS**

**Mr. Brumback** asked whether the Committee should get Lee County tank inspectors to come speak to us on the new process; the consensus was that such a visit would be beneficial. It was also noted that the AG signs (provided by Cattlemen's Assoc.) are being put up. **Mr. Webb** commented on possible funding for the additional signs that will be needed after this first batch are gone; he also noted that another meeting with Animal Control had been held, which was very productive.

### **FUTURE MEETING TOPICS**

*None.*

### **GUEST COMMENTS**

*None*

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### **NEXT MEETING**

❖ *July 10, 2014 at 9:00 a.m. in the Building Construction Services large conference room.*

### **ADJOURNMENT**

The meeting was adjourned at 10:13 a.m.

**To be approved by the Committee on:  
July 10, 2014**